

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROMAN GABRIEL HARLAN,

Defendant.

8:18CR104

ORDER

On May 30, 2018, Defendant filed an Unopposed Motion to Continue Trial ([Filing No. 17](#)), asserting that he needed additional time to investigate this case and prepare for trial. Based upon the showing set forth in the motion, the Court found the motion should be granted, and by written order, continued Defendant's trial to August 20, 2018. ([Filing No. 18](#).) However, following issuance of the order, Defendant informed his counsel that he no longer wanted to waive his right to a speedy trial.

A hearing was held on June 5, 2018 to discuss Defendant's desire to withdraw his waiver of speedy trial. Defendant was present with his counsel, Assistant Federal Public Defender Michael F. Maloney. The United States was represented by Assistant U.S. Attorney Erin Eldridge. At the hearing, Defendant's counsel indicated that he could not be ready for trial on the originally scheduled trial date of June 18, 2018. Defendant's counsel outlined on the record what work he has performed in this case, and stated the reasons why he requires additional time to prepare for trial. Defendant objected to any continuance of his original trial date, and stated he wanted to go to trial on June 18, 2018.

The Court considered the arguments of counsel and Defendant, and found that although defense counsel had been duly diligent, additional time was needed to adequately prepare the case for trial. The Court determined that failing to grant additional time could result in a miscarriage of justice. The Court further found that the ends of justice served by granting the continuance outweigh the interests of the public and Defendant in a speedy trial.

At the hearing, Defendant also made an oral request for the appointment of new counsel. Following an *in camera* discussion with Defendant and Mr. Maloney, the Court denied

Defendant's request. Therefore, Mr. Maloney will continue to represent Defendant in these proceedings.

Accordingly,

IT IS ORDERED:

1. Defendant's trial remains set for August 20, 2018, at 9:00 a.m., or as soon thereafter as the case may be called, for a duration of four (4) days. Trial will be held in the Special Proceedings Courtroom of the Roman L. Hruska Federal Courthouse, Omaha, Nebraska. Jury selection will be held at commencement of trial.
2. The Court finds that the ends of justice served by continuing the trial outweigh the interests of the public and Defendant in a speedy trial. The additional time arising as a result of the granting of the motion to continue, the time between when the unopposed motion to continue trial was filed, May 30, 2018, and the new trial date of August 20, 2018, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act because although counsel have been duly diligent in these proceedings, additional time is needed to adequately prepare this case for trial and failing to grant additional time could result in a miscarriage of justice. 18 U.S.C. § 3161(h)(1) & (h)(7). Failure to timely object to this Order, as provided under this Court's Local Rules, will be deemed a waiver of any right to later claim the time should not have been excluded under the Speedy Trial Act.
3. Defendant's oral motion for the appointment of new counsel is denied.

Dated this 5th day of June, 2018.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge